

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

DUBLIN DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

2015 NOV 13 AM 11:54

CLERK *J. Z...*
SO. DIST. OF GA.

JOAQUIN OSVALDO
GALLO-CHAMORRO,

Petitioner,

v.

CV 315-078

STACEY N. STONE, Warden,

Respondent.

ORDER

Petitioner, originally convicted in the Southern District of Florida, brings the above-captioned petition pursuant to 28 U.S.C. § 2241, requesting relief from an immigration detainer. (Doc. no. 1.) Presently before the Court is Petitioner's motion to change venue. (Doc. no. 4.) Petitioner seeks a change of venue because he has been transferred from McRae Correctional Facility in McRae, Georgia, in the Southern District of Georgia, to the INS Stewart Detention Center in Lumpkin, Georgia, in the Middle District of Georgia. (*Id.*) Because a § 2241 petition should be transferred to the judicial district of Petitioner's place of present confinement, the Court **GRANTS** Petitioner's motion. Baldwin v. Fla. Dept. of Corr., 318 F. App'x 737, 738 (11th Cir. 2008) (ordering transfer to district of petitioner's place of present confinement).

A writ filed pursuant to 28 U.S.C. § 2241 may be filed in the district court for the district where the petitioner is in custody, or the district where the petitioner was convicted.

28 U.S.C. § 2241(d). A district court where a petition is filed may, in the exercise of the court's discretion, transfer the petition to another district court. Id. The writ of habeas corpus acts upon petitioner's present custodian. See Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 495 (1973) ("The writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody."). Because Petitioner is now incarcerated in, and his present custodian is located in the Middle District of Georgia, transfer is appropriate. 28 U.S.C. § 90(c); Baldwin, 318 F. App'x at 738.

Therefore, it is **ORDERED** that the above-captioned case is **TRANSFERRED** to the United States District Court for the Middle District of Georgia for further consideration. The Clerk of Court is **DIRECTED** to immediately forward the file to that District.

SO ORDERED this 13th day of November, 2015, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE